

**RECEIVED**  
USDC, WESTERN DISTRICT OF LA  
ROBERT H. SHERWELL, CLERK  
ALEXANDRIA, LOUISIANA  
DATE 11 13 07 UNITED STATES DISTRICT COURT  
BY JOB WESTERN DISTRICT OF LOUISIANA

**ALEXANDRIA DIVISION**

**MICHAEL WILSON**

**DOCKET NO. 06-CV-2409**

**VERSUS**

**JUDGE DRELL**

**HARRY LAPIN, ET AL**

**MAGISTRATE JUDGE KIRK**

**REPORT AND RECOMMENDATION**

Pro se Plaintiff Michael F. Wilson is a federal inmate currently incarcerated at the United States Penitentiary in Beaumont, Texas. He filed the instant lawsuit with pro se Plaintiff Theresa Lacy, a non-prisoner who visited Inmate Wilson while he was incarcerated at the United States Penitentiary in Pollock, Louisiana. Wilson's and Lacy's claims were severed, so Wilson is the only remaining plaintiff in the above-captioned matter.

On April 30, 2007, the undersigned issued a Memorandum Order [Doc. #27], directing Plaintiff to submit a proper application to proceed in forma pauperis ("IFP"). The IFP form was mailed to Plaintiff on May 1, 2007 by the Clerk of Court. Plaintiff was ordered to amend his complaint and submit the completed IFP form by May 30, 2007.

A motion for enlargement of time was filed by Plaintiff, and the undersigned granted an extension of thirty days, to July 6, 2007, to respond to the Court's Memorandum Order. Plaintiff Wilson was again specifically instructed to complete the IFP form, and a

second IFP form was mailed to Plaintiff Wilson by the Clerk of Court. [Docket Sheet Order 6/6/07 and Remark 6/8/07]

Plaintiff filed an amended complaint on July 9, 2007, but still failed to submitted the completed IFP application.

On October 15, 2007, Plaintiff was again ordered to submit an application to proceed in forma pauperis (IFP) or pay the appropriate filing fee. [Doc. #43] Plaintiff was warned that the failure to file the IFP application or pay the fee would result in his lawsuit being dismissed. He was given an additional fifteen calendar days to comply with the latest order. More than fifteen days have elapsed since the most recent order, and more than six months have passed since Plaintiff was first ordered to submit the IFP form. Still, Plaintiff has failed to submit the appropriate IFP application or the filing fee.

#### LAW AND ANALYSIS

Federal Rules of Civil Procedure Rule 41(b) permits dismissal of claims "[f]or failure of the plaintiff to prosecute or to comply with ... any order of court...." The district court also has the inherent authority to dismiss an action sua sponte, without motion by a defendant. See Link v. Wabash R.R.Co., 370 U.S. 626, 630-31 (1962). "The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts." McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir.1988).

Because Plaintiff has not responded to the Court's Orders of

April 30, July 6, and October 15, 2007, **IT IS RECOMMENDED** that Plaintiff's civil rights complaint be **DISMISSED** in accordance with the provisions of FRCP Rule 41(b).

**OBJECTIONS**

Under the provisions of 28 U.S.C. Section 636(b)(1)(C) and Rule 72(b), parties aggrieved by this recommendation have ten (10) business days from service of this report and recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within ten (10) days after being served with a copy of any objections or response to the district judge at the time of filing.

Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within ten (10) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See Douglass v. United Services Automobile Association, 79 F.3d 1415 (5th Cir. 1996).

THUS DONE AND SIGNED at Alexandria, Louisiana, this 13 day of November, 2007.

  
\_\_\_\_\_  
JAMES D. KIRK  
UNITED STATES MAGISTRATE JUDGE